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PROTECTION OF THE OCEANS AND ALL KINDS OF SEAS, INCLUDING ENCLOSED AND SEMI-ENCLOSED SEAS, AND COASTAL AREAS AND THE PROTECTION, RATIONAL USE AND DEVELOPMENT OF THEIR LIVING RESOURCES

Global aspects of marine pollution

CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

Note by the Secretary-General of the Conference

INTRODUCTION

1. In its decision 1/20, paragraph 2, the Preparatory Committee for the United Nations Conference on Environment and Development (UNCED) invited the International Maritime Organization (IMO) "to consider initiating work to strengthen the régime curbing dumping at sea".

2. In response, IMO has prepared the following report in co-operation with the contracting parties for the consideration of the Preparatory Committee.

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* A/CONF.151/PC/13.

I. BACKGROUND

3. In the early 1970s a number of countries, including those countries with a long history of systematic disposal of wastes into the sea, recognized that the capacity of the sea to assimilate wastes and render them harmless without detriment to natural resources was not unlimited. Accordingly, the United Nations Conference on the Human Environment by recommendation 86 (d) 1/ invited the Government of the United Kingdom to convene an international conference to finalize a convention on the dumping of wastes at sea. The Conference was held in London from 30 October to 13 November 1972 at which the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the so-called London Dumping Convention) was adopted.

4. The Convention entered into force on 30 August 1975. The United Kingdom Government convened the first meeting of contracting parties to the Convention in London from 17 to 19 December 1975. The meeting unanimously agreed to designate IMO to be responsible for the secretariat duties in relation to the Convention and requested the organization to assume and discharge those duties forthwith.

5. As of 1 December 1990, 65 States had ratified or acceded to the Convention. However, the accession of the German Democratic Republic to the Federal Republic of Germany on 3 October 1990 yields 64 contracting parties.

6. The Dumping Convention covers all marine waters seaward of the baseline.

7. The general objective of the Convention is to promote the effective control of all sources of marine pollution and to oblige its parties to take all practicable steps to prevent the pollution of the sea by dumping. Provisions and technical annexes have been adopted to regulate the deliberate disposal at sea of any wastes and other matter from vessels, aircraft, platforms or other man-made structures, as well as the deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures.

8. The basic provisions of the Convention are summarized below:

(a) Substances and wastes contained in the black list (annex I to the Convention) shall not be dumped at sea. Certain of these substances may be dumped if they are contained in wastes as trace amounts or are rapidly rendered harmless at sea;

(b) Substances and wastes contained in the grey list (annex II to the Convention) may be dumped at sea under special care provisions (special permit);

(c) All other wastes may be dumped under a general permit to be issued by a national authority;

(d) When issuing a dumping permit, national authorities shall take into account the provisions set out in annex III to the Convention including detailed research and studies on the characteristics and composition of the wastes, the

characteristics of the proposed dumping site and the method of disposal and the practical availability of alternative land-based methods;

(e) Records of the nature and amounts of all wastes and other matter permitted to be dumped at sea have to be reported to the secretariat;

(f) Monitoring of sea/dumping sites has to be conducted and reported to the secretariat.

II. PARTICIPATION

9. Since 1975 IMO, as the secretariat of the Convention, has convened 13 Consultative Meetings of Contracting Parties to the Convention, 13 meetings of the Scientific Group on Dumping, and a number of meetings of ad hoc groups established to consider specific issues, e.g. incineration at sea, disposal at sea of dredged material, radioactive wastes, legal matters, long-term strategies, etc.

10. States that are not contracting parties to the Convention, intergovernmental organizations working in the fields concerned and international non-governmental organizations (NGOs) have been invited to attend these meetings as observers.

11. The participation of NGOs has been very fruitful in that they have provided expertise and made numerous contributions on the various issues discussed.

III. TRENDS IN ACTIVITIES RELATED TO THE DISPOSAL OF WASTES AND OTHER MATTER AT SEA AND THE PROTECTION OF THE MARINE ENVIRONMENT

12. Contracting parties to the Dumping Convention are obliged to report their dumping and related activities (e.g. compliance monitoring, environmental impact assessments) to the secretariat in accordance with notification procedures adopted by the Consultative Meeting. On the basis of the material received by the secretariat, an analysis of the quantities of wastes and other matter dumped at sea and incinerated at sea indicates the following:

(a) The amount of industrial wastes from 1976 to 1979 shows an upward trend from 11 million to 17 million tons corresponding to an increase of contracting parties from 23 to 43. Since 1979 the amount decreased to 6 million tons in 1987. This reduction has been achieved through the efforts of contracting parties to find alternative disposal methods, to re-use wastes and to use cleaner technologies. The Thirteenth Consultative Meeting unanimously agreed that the dumping of all industrial waste materials (except inert ones) should be terminated by the end of 1995;

(b) From 1976 to 1980 the amount of sewage sludge dumped annually at sea, as reported to the secretariat, increased from 12.5 to 17 million tons, and since 1980 decreased from 17 to 14 million tons by 1985. Considerably smaller amounts were dumped during the period 1985-1988. The amount is expected to decrease further as some contracting parties have taken action to phase out this practice;

(c) The amount of dredged material dumped at sea annually is about 260 million tons. Some yearly fluctuations occur owing to the variation in maintenance and new dredging works associated with shipping activities. Probably two thirds of the material is connected with maintenance operations to keep harbours, rivers and other waterways from silting up. The other third involves new works. Approximately 10 per cent of dredged sediments are heavily contaminated from a variety of sources including shipping, industrial and municipal discharges and land run-off;

(d) With regard to the incineration at sea of liquid organohalogen wastes, the annual amount burned at sea from 1976 to 1987 was about 100,000 tons. Since 1987 the amount incinerated at sea has decreased, and from 1990 onwards no application for sea incineration of liquid noxious wastes has been made. The present generation of marine incineration facilities will have been decommissioned by the end of 1990.

13. With regard to the disposal of radioactive wastes at sea, the Seventh Consultative Meeting in 1983 adopted a resolution calling for the suspension of all such activities pending the presentation of a report by a scientific expert meeting. In 1985 the Ninth Consultative Meeting continued the suspension pending the completion of additional scientific and technical studies and assessments, as well as studies on the wider political, legal, economic and social aspects of radioactive waste dumping.

IV. ACCOMPLISHMENTS AND ACHIEVEMENTS

14. With 14 years of operational experience, the contracting parties have faced an array of challenges in their efforts to protect the marine environment. Taking into account their responsibilities to promote effective controls of all sources of marine pollution and to take practicable steps especially to prevent the pollution of the sea by dumping, the contracting parties have made substantial progress in reducing or eliminating ocean dumping practices as noted above.

15. The Convention has been very effective in that a number of guidelines, recommendations and control and notification procedures have been adopted that assist contracting parties in the effective implementation of the Convention. These include the following:

(a) Guidance for the application of annex III to the Dumping Convention (criteria governing the issuance of permits);

(b) Procedures and criteria for determining emergency situations;

(c) Criteria for the allocation of substances to the annexes to the Convention;

(d) Reporting of sea disposal and monitoring activities;

(e) Recommendation against the export of wastes for disposal at sea;

(f) Regulations and technical guidelines for the control of incineration at sea;

(g) Disposal of radioactive wastes and other radioactive matter at sea;

(h) Disposal of radioactive wastes into sub-seabed repositories accessed from the sea;

(i) Environmental hazards caused by the disposal at sea of persistent plastics and other persistent synthetic materials (including fishing nets);

(j) Termination of incineration of noxious liquid wastes at sea;

(k) Phasing out sea disposal of industrial waste.

16. The Consultative Meeting agreed that its goal to protect the marine environment should be achieved by promoting the application of improved waste management procedures based on a hierarchical system. The hierarchy comprises a tiered approach to the control of waste production and disposal: the highest level gives preferred status to waste avoidance, while subsequent tiers emphasize recycling, treatments, destruction, disposal and storage (least desirable).

17. In the light of the waste management hierarchy, a number of contracting parties have established programmes for phasing out the disposal at sea of industrial wastes and sewage sludge, thus reflecting their ability to develop methods for reusing waste products and for alternative treatment and disposal methods.

18. In accordance with the requirements of the Convention, the "practical availability of alternative land-based methods of treatment, disposal or elimination, or treatment to render the matter less harmful for dumping at sea" has to be considered by the responsible national administration of a contracting party in every case where a permit is requested for waste disposal at sea. Guidelines adopted for the implementation of annex III to the Convention state that a licence for sea disposal should not be issued if an analysis shows that the sea-dumping alternative is less preferable than land-based options. Such an analysis should include a comparative assessment of (a) human health risks; (b) environmental costs; (c) hazards (including accidents) associated with treatment, packaging, transport and disposal and economics (including energy costs); and (d) exclusion of future uses of disposal areas, for both sea disposal and the alternatives.

19. For those cases where sea disposal is the preferred option, the following measures are recommended:

(a) Use sea disposal only for those materials that are compatible with the marine environment;

(b) Use locations for sea disposal of wastes that will not interfere with other uses of the sea;

(c) Use waste disposal practices at sea that minimize local impacts at the point of disposal;

(d) Carefully evaluate the potential environmental impact of new developments and seek to mitigate adverse impacts;

(e) Monitor the health of the oceans on a continuing world-wide basis;

(f) Manage the use of the resources of the sea so as to prevent depletion of resources on a world-wide basis.

20. Work is currently under way by the contracting parties to develop a framework for use by regulatory agencies in assessing the suitability of wastes for disposal at sea within a comprehensive waste management strategy. This framework, called the draft new assessment procedure (NAP), integrates all aspects of the Convention into a practical procedure and contains the following elements: (a) prohibition list; (b) waste prevention audit; (c) consideration of waste management options; (d) waste characterization process; (e) disposal site characterization; (f) evaluation of potential impacts; and (g) monitoring and reporting requirements.

V. SCIENTIFIC AND TECHNICAL ADVICE

A. Institutional framework

21. The Convention stipulates that the Consultative Meeting keep under continuing review the implementation of its provisions. For this purpose, the Consultative Meeting invites appropriate bodies to collaborate with and to advise the parties or IMO on any scientific or technical aspect relevant to the Convention. In this context it should be noted that the Convention requires that amendments to its annexes have to be based on scientific or technical considerations.

22. To implement the above requirement the Consultative Meeting established the Scientific Group on Dumping as its standing advisory body. The Scientific Group on Dumping has the following responsibilities:

(a) To respond to specific requests from the Consultative Meeting for scientific advice on matters related to the Convention;

(b) To keep under continuing review the provisions of the Annexes to the Convention and recommend to the Consultative Meeting such changes as may be appropriate from an examination of available scientific and technical information and prepare, as needed, guidance on the interpretation and implementation of the annexes to the Convention;

(c) To review relevant scientific information, particularly that arising from new scientific and technological developments (with respect to newly synthesized compounds, newly discovered hazards of existing substances and new techniques for waste treatment and disposal) and prepare, for distribution by the secretariat, reports on such matters as may be relevant to the contracting parties in implementing the Convention;

(d) To prepare and maintain a list of hazardous substances or groups of substances to which particular attention should be paid, and, when sufficient scientific evidence has accumulated to warrant amendments to the annexes to the Convention, to prepare recommendations for such amendments and submit them to the Consultative Meeting for action;

(e) To develop guidelines for planning monitoring programmes to assess the health of the oceans, and to encourage the development of monitoring programmes by contracting parties either acting individually or in co-operation with each other;

(f) To maintain an awareness of the impacts on the marine environment of inputs from all waste sources and draw to the attention of the Consultative Meeting any emerging or worsening problems;

(g) To recommend to the Consultative Meeting the calling of special scientific conferences or symposia to review specific wastes or waste treatment and disposal technologies.

23. The Consultative Meeting has established a number of ad hoc groups to provide advice on specific issues, such as incineration at sea, the disposal of dredged material, the development of NAPs, etc. The Inter-Governmental Panel of Experts on Radioactive Waste Disposal at Sea was established by the Tenth Consultative Meeting in 1986 inter alia to undertake studies and assessments on the issue of comparative land-based options and the costs and risks associated with them and on the question of whether it can be proven that dumping of radioactive wastes and other radioactive matter at sea will not harm human life and/or cause significant damage to the marine environment.

24. On a continuing basis the Consultative Meeting requests advice on issues needing multidisciplinary expertise from the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) comprised of IMO, the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Meteorological Organization (WMO), the World Health Organization (WHO), the International Atomic Energy Agency (IAEA), the United Nations and the United Nations Environment Programme (UNEP). In this respect advice has been provided by GESAMP on:

(a) Scientific criteria for the selection of waste disposal sites at sea;

(b) Marine pollution implications of coastal area development;

(c) An oceanographic model for the dispersion of wastes disposed of deep at sea;

(d) Environmental capacity: an approach to marine pollution prevention;

(e) Coastal modelling;

(f) Review of potentially harmful substances when dumped at sea.

25. Working through the secretariat, the Consultative Meeting co-operates closely with scientific and technical bodies of other United Nations agencies and international organizations, including the International Oceanographic Commission (IOC) IMO/UNEP Group of Experts on Effects of Pollutants (GEEP), the International Council for the Exploration of the Sea (ICES) and the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development (OECD).

B. Technical co-operation and development

26. The need to assist contracting parties that may request support for scientific and technical co-operation in the prevention and control of marine pollution caused by dumping had been recognized by the Intergovernmental Conference that adopted the Dumping Convention. This is reflected in a resolution addressed to the Secretary-General of the United Nations requesting him to draw the attention of all States to the contents of article IX of the Convention as follows:

> "The Contracting Parties shall promote, through collaboration within the Organization and other international bodies, support for those Parties which request it for:
>
> "(a) The training of scientific and technical personnel;
>
> "(b) The supply of necessary equipment and facilities for research and monitoring;
>
> "(c) The disposal and treatment of waste and other measures to prevent or mitigate pollution caused by dumping, preferably within the countries concerned, so furthering the aims and purposes of this Convention."

27. Efforts have been made by the secretariat to strengthen the capacity for national and regional action to prevent and control marine pollution by establishing a technical co-operation system. This system includes:

(a) Fellowships for experts from developing countries to attend symposia, seminars and workshops related to the protection of the marine environment;

(b) The convening of national and regional seminars;

(c) The provision of scientific and technical (as well as legal advice) to national and regional meetings concerned with the protection of the marine environment from dumping.

This work has been supported by IMO's Global Programme for the Protection of the Marine Environment and by other United Nations programmes and agencies, in particular UNEP, UNESCO, IOC and the World Bank.

28. Three regional seminars have been conducted to date, one at Mexico City in October 1987 for the wider Caribbean region, another at Bangkok in December 1987 for East-Asian countries, and one at Abidjan in May 1990 for countries of the West and Central African subregions. National seminars on waste management and control

of waste disposal at sea were held in Jamaica (Kingston, 1989) and in China (Shanghai, September 1989). A regional seminar for East African countries is planned for 1991. The secretariat has also sponsored the attendance of participants from developing countries at the International Ocean Disposal Symposia (since renamed to the International Ocean Pollution Symposia).

VI. PROBLEMS ENCOUNTERED WITH THE EFFECTIVE IMPLEMENTATION OF THE CONVENTION

A. Membership and participation

29. The Consultative Meeting recognizes that in order to enhance the effectiveness of the Dumping Convention more States have to become contracting parties to the Convention.

30. The Secretary-General of IMO, at the request of the Consultative Meeting, annually invites all Governments that have not yet ratified or acceded to the Convention to become contracting parties. The invitation emphasizes the value of the Dumping Convention as a global basis for the application of sea disposal principles and practices with regard to waste management. The importance of the Convention in supplying co-ordination, assistance and the comprehensive approach needed to consolidate the jurisdiction applied at the regional and national levels also is emphasized. Governments that have not yet ratified or acceded to the Convention are also invited to indicate whether they have any difficulties or specific problems which may have prevented them from becoming members of the Convention. Attention is drawn to the possibility that developing countries may request IMO to provide technical and scientific advice within the framework of its technical assistance programme. Attention is further drawn to recommendations and decisions made within other United Nations organizations addressing the need that all Governments that are not yet contracting parties should accede to the Convention (e.g. decisions of the Governing Council of UNEP, resolution of the General Conference of UNESCO, report of the World Commission on Environment and Development, 2/ etc.).

31. The results have not been very encouraging. In recent years the annual number of accessions has continuously decreased, e.g. between 1980 and 1985 16 States became contracting parties, whereas between 1985 and 1990 only 5 States acceded to the Convention. It is particularly notable that less developed countries have been hesistant to join the Convention. The reasons could be twofold: either these countries, owing to their less developed state of industrialization, do not produce wastes for which sea dumping would provide a disposal option; or the requirements of the Convention and the various guidelines thereto cannot be implemented for economic reasons. It also has been pointed out that the value and importance of the Convention for the protection of the marine environment is not widely known and that pleas and explanations prepared regularly by the Secretary-General of IMO do not reach those national administrations that would be particularly concerned with waste management or environmental issues.

32. The Thirteenth Consultative Meeting in 1990 accordingly requested the secretariat to increase its efforts to make the Convention more widely known by:

(a) Providing information to non-contracting parties on the aims and objectives of the Dumping Convention, as well as on its achievements and the possibilities it provides with regard to technical assistance and development;

(b) Preparing an information package, for distribution to non-contracting parties, written in layman's terms;

(c) Preparing plans on how to bring expertise gained with the Dumping Convention to developing countries, possibly through visits by the secretariat and/or consultants.

33. The number of participants from contracting parties at meetings organized within the framework of the Dumping Convention has been rather low, in that only 30 to 45 parties attend Consultative Meetings and only 15 to 20 delegations from contracting parties participate in meetings of its subsidiary bodies. A number of requests, in particular those from developing countries, have been made for IMO to support financially the attendance of delegations at meetings convened under the Dumping Convention. Whilst IMO and the Consultative Meeting understand the problems related to the participation of experts from developing countries at meetings, no solution has yet been found to support the various requests. Under the IMO statutes it is not possible to support the participation of delegations in intergovernmental meetings.

B. Enforcement

34. Criticism has been expressed concerning the enforcement of the provisions of the Dumping Convention. Enforcement of the Convention is the responsibility of national administrations of loading port States, coastal States and flag States of the dumping vessels concerned, particularly when dumping is carried out on the high seas. It has been suggested that it might be necessary to strengthen the enforcement mechanisms by making an international authority such as IMO responsible for supervising and controlling all dumping activities.

35. A certain level of international control is currently applied by the Consultative Meeting through the notification of dumping and monitoring activities requested under the Convention. Proposals have been made by a number of contracting parties to strengthen the control mechanism by introducing within the Dumping Convention a prior notification procedure, a multilateral consultation mechanism or a prior justification procedure concerning intended waste disposal operations at sea. Proponents assert that additional control mechanisms would strengthen the collective responsibility of all contracting parties to the Dumping Convention vis-à-vis activities carried out under the Convention.

36. Matters concerning the improvement of enforcement and control of the Convention are still under discussion. With regard to the improvement of enforcement provisions, the Consultative Meeting agreed on actions as set out under paragraph 46 below. With regard to improving control of sea dumping activities, there has been hesitance to adopt detailed consultation mechanisms because these, under a global convention, would involve lengthy and cumbersome procedures. The

Consultative Meeting noted, however, that procedures have been established within the framework of regional dumping agreements (e.g. the Oslo Convention for the Protection of the North Sea and the North-East Atlantic and the 1974 Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area).

37. The Consultative Meeting has drawn attention to the fact that the Dumping Convention encourages States in a given geographical area to endeavour, taking into account characteristic regional features, to enter into regional agreements consistent with the aims and objectives of the Convention. The Consultative Meeting has noted with disappointment that so far there have been only two regional dumping agreements of general scope adopted within UNEP's Regional Seas Programme, and a third dealing specifically with the disposal at sea of radioactive substances.

C. Reporting on sea disposal activities and monitoring

38. Another area where concerns have been expressed with regard to the effective implementation of the Dumping Convention is related to the notification of dumping activities of contracting parties and of their results of surveillance and monitoring programmes that are carried out in connection with such activities. It has been noted that only 60 per cent of the contracting parties have fulfilled their obligations under the Convention and that this has resulted in a lack of confidence in the effective implementation of the Convention. The Consultative Meeting requested the secretariat to increase its efforts by completing a list of national focal points of contracting parties responsible for the implementation of the Dumping Convention. This would allow direct contact between the secretariat and national administrations concerned with waste disposal at sea, as well as those administrations and/or authorities that carry out monitoring and surveillance programmes at sea.

D. Different philosophies

39. As might be expected, the contracting parties to the Dumping Convention hold different views on the implementation of the Convention. Some countries stress that the ultimate aim of the Convention is the elimination of dumping activities (with the possible exception of dredged material disposal). These countries prefer not to use disposal at sea and adopt land-based alternatives wherever possible. Other countries believe that controlled disposal at sea can be environmentally acceptable and sometimes a necessary part of their waste management programme. These competing philosophies are primarily based on different pollution prevention strategies as well as dissimilar views on what constitutes an adequate scientific basis for decisions, how to define acceptable/unacceptable risks and how to assess alternatives to dumping at sea.

40. Despite disagreement over the ultimate purpose of the Convention and the interpretation of alternatives, there is unanimous support for the introduction of improved waste management procedures based on the hierarchical system outlined above. There also is indication that the gap between the different views, which are by their nature mutually exclusive, could be narrowed by taking into account

regional and temporal situations. For example, where it might be appropriate to terminate certain dumping practices in a particular region, in another region disposal at sea may be seen as an interim solution pending the development of less wasteful technologies, improved opportunities for recycling and better techniques for treatment or disposal.

VII. CURRENT STATUS, ONGOING WORK AND EXPECTATIONS

A. Status

41. It has been demonstrated that the Convention provides an effective instrument for the protection of the marine environment. This is not only because of the requirements contained in the Convention itself, but also because of the willingness of contracting parties to work together within the forum provided by Consultative Meetings, and subsidiary bodies thereof, in reaching internationally agreed solutions to complex waste management problems.

42. The Consultative Meeting from its inception agreed that the paramount goal was to protect the marine environment. Therefore, the dumping at sea of all hazardous wastes posing risks to the marine environment and human health would have to be eliminated, and that this should be achieved through the continuing reduction of hazardous wastes. This line of thinking has created greater awareness among contracting parties concerning the potential harmful effects of dumping at sea in cases where no proper hazard assessment and licensing control methods have been applied.

43. In order to promote the effective implementation of the Convention and the harmonization of national policies to prevent marine pollution by dumping, the Consultative Meetings have adopted a number of guidelines and recommendations for the uniform interpretation of the provisions of the Convention. A recent example was a resolution adopted by the vast majority of contracting parties that the disposal into sub-seabed sites accessed from the sea should be considered as "dumping" under the terms of the Dumping Convention.

44. A number of contracting parties have established programmes for phasing out the disposal at sea of industrial wastes and sewage sludges, as a result of their capability for developing alternative treatment and disposal methods. The Thirteenth Consultative Meeting held in autumn 1990 unanimously agreed that the dumping of all industrial wastes (unless these were of inert characteristics) should be terminated by 31 December 1995.

B. New challenges

45. Several contracting parties have emphasized that the phasing out of dumping at sea of industrial wastes may lead to the transfer of pollution from the sea to other parts of the environment. It was therefore agreed that the implications of a phase-out should be investigated through a global hazardous waste survey. The survey will be carried out by the secretariat in co-operation with contracting

parties and, if possible, with other relevant United Nations agencies. The survey will include the distribution of questionnaires on national waste situations, and will be followed up by interviews conducted by a waste expert with industries, national administrations and NGOs. A comprehensive study on the effectiveness, environmental acceptability, costs and benefits of land-based alternatives to waste dumping and incineration at sea will be prepared by autumn 1992.

46. The Consultative Meeting recognizes that more work is necessary to improve the implementation of the articles of the Dumping Convention and to enhance the status and membership of the Convention. Ongoing and future work includes:

(a) Development of procedures for the assessment of liability regarding dumping at sea;

(b) Development of measures for improving the control of dumping activities from ships flying the flag of a contracting party in waters of a non-contracting party, in particular where dredging operations are involved;

(c) Establishment of amendments to the Convention with a view to clarifying the responsibilities and rights of coastal States to apply the Convention in a zone adjacent to their coasts;

(d) Preparation of guidance for the implementation of the Convention concerning measures that should be taken by contracting parties to prevent and punish conduct in contravention of the provisions of the Convention;

(e) Exploration of ways and means to improve the flow of information between contracting parties on techniques and practices that could help to meet the objectives of the Convention, e.g. information on new technologies and on analytical tools for evaluating and comparing various waste reduction/disposal alternatives;

(f) Consideration on how financial support could be obtained from developed countries to improve and intensify assistance to those contracting parties from countries that are in a less developed state;

(g) Preparation of a resolution for better liaison with regional organizations concerned with the prevention of marine pollution and for encouraging the establishment of regional conventions or protocols for the prevention of marine pollution by dumping of wastes at sea;

(h) Review of the preparatory process for the establishment of the International Sea-bed Authority, particularly with respect to environmental guidelines on sea-bed mining;

(i) Consideration of plans for establishing marine pollution prevention measures covering offshore and sea-bed activities;

(j) Review of progress of work by the Preparatory Committee for the 1992 UNCED in developing plans for that Conference.

47. With regard to subparagraph 47 (j), the Thirteenth Consultative Meeting recognized the importance of this work for the development of new policies concerning the prevention and control of marine pollution. Accordingly, the Meeting issued a statement to the Preparatory Committee drawing attention to the role of the Dumping Convention for the protection of the marine environment and the achievements of the Convention (see sect. VIII below). The Meeting also adopted several recommendations for the Conference to consider for improving the protection of the marine environment. The resolution adopted by the Thirteenth Consultative Meeting on the protection of the oceans and all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas (resolution LDC.40(13)), which is considered part of the statement, is reproduced in the annex to the present document.

VIII. STATEMENT BY THE THIRTEENTH CONSULTATIVE MEETING OF CONTRACTING PARTIES TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER, 1972

(London, 29 October-2 November 1990)

48. The contracting parties and observers to the Thirteenth Consultative Meeting, being an informed gathering of Governments and organizations deeply concerned with the health of the marine environment, issued the following statement as a result of their discussions.

49. In June 1972, representatives of Governments, intergovernmental agencies, NGOs and the private sector from around the globe came together in Stockholm, Sweden, for the United Nations Conference on the Human Environment. At that historic gathering, on a wide range of issues the Conference called upon Governments and peoples to exert common efforts for the preservation and improvement of the environment, for the benefit of all the people and for their posterity.

50. For the oceans, a new impetus to the development of international rules applicable to ocean dumping resulted from the Stockholm Conference. Principle 7 of the Stockholm Declaration calls upon States to "take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea". Among other recommendations emanating from the Stockholm Action Plan, special reference was made to the need (Rec. 88) for "an overall instrument for the control of ocean dumping ...".

51. Although the Stockholm principles and recommendations were not directly binding on States, they provided the backdrop and prelude to the adoption of the Convention on the Prevention of Pollution by Dumping of Wastes and Other Matter (the London Dumping Convention) in November of that same year. That agreement represented a significant step forward in the international protection of ocean resources. Having come into force in 1975, to date the London Dumping Convention has been ratified by 65 nations (see para. 5 above).

52. The basic purpose of the London Dumping Convention is to encourage nations of the world to work together to ensure that the marine environment is protected from the hazards of dumping. Protection of the marine environment, broadly defined, is the foundation of the London Dumping Convention. Article I provides that "contracting parties shall individually and collectively promote the effective control of all sources of pollution of the marine environment ...", while also incorporating the commitments contained in Principle 7 of the Stockholm Declaration.

53. With 15 years of operational experience, the contracting parties have faced an array of challenges in their efforts to protect the marine environment. There resides within the London Dumping Convention substantial expertise on matters related to ocean dumping specifically, and to broader marine pollution issues. Important refinements of allowable practices have been forged during discussions and debate in the London Dumping Convention's formal Consultative Meetings, with inter-sessional guidance from subsidiary bodies. Those refinements include: an indefinite moratorium on low-level radioactive waste dumping at sea, dating back to 1983, that is the subject of ongoing risk-related assessments; an agreement in 1988 to proceed towards the termination of ocean incineration of liquid noxious wastes by 1994 or earlier; and a decision in November 1990 to phase out industrial waste dumping at sea by 1995. Substantial expertise also has been devoted to developing guidance on the annexes to the London Dumping Convention to assist Governments in assessing the impacts of, and need for, ocean disposal of wastes.

54. The contracting parties to the London Dumping Convention, as well as the intergovernmental agencies, international and non-governmental observers that have been involved in work under the London Dumping Convention, represent a powerful lobbying force for the oceans. Their collective skills have been brought to bear on matters directly related to the London Dumping Convention as well as to marine pollution concerns beyond its scope. In anticipation of the 1992 UNCED, special attention has been given to an examination of the London Dumping Convention, in particular its responsibility to "promote the effective control of all sources of marine pollution ...". Gaps and overlaps between the London Dumping Convention and other international agreements concerned with marine pollution have been considered.

55. As a result, the contracting parties at the Thirteenth Consultative Meeting adopted resolution LDC.40(13) (see annex) addressing the Preparatory Committee for UNCED to be held in Brazil in 1992. This resolution adopted recommends the Conference to consider:

(a) The creation of a global mechanism to co-ordinate the protection of the marine environment from all sources;

(b) A global instrument and new and improved regional agreements to address land-based sources of marine pollution;

(c) The need to address waste management issues by focusing, inter alia, on environmentally acceptable land-based alternatives to disposal of wastes into the ocean;

(d) The need to pursue the elimination of marine pollution through such activities as the adoption, implementation and enforcement of more stringent national and regional controls and the establishment of such measures as clean production methods and technologies; and

(e) The mechanisms required to provide co-operation, transfer of technology and other assistance to developing countries in order that they can fully participate in the above actions.

IX. CONCLUSIONS

56. The Dumping Convention represents a unique forum dealing with global marine pollution and waste management policies, and contracting parties have expressed their collective duty to share their experience in these fields.

57. Since its inception in 1975, work carried out within the framework of the Convention has undergone a number of developments, moving from activities related to generally accepted practices of waste disposal at sea to those concerned with the phasing out of such practices by binding sea disposal into a comprehensive waste strategy scheme. The discussions within the Dumping Convention have increased the awareness of contracting parties concerning the potential effects of dumping hazardous substances at sea, thus leading to a continuous tightening of control procedures. These developments have certainly been influenced by the Ministerial Decisions of the International Conferences on the Protection of the North Sea (1984, 1987, 1990), decisions of the Oslo Commission, the World Commission on Environment and Development and the Bergen Conference (1990).

58. Work is continuing in many fields related to the effective implementation of the Convention and to broadening the scope of the Convention in the light of the obligations of contracting parties individually and collectively to promote the effective control of all sources of pollution of the marine environment.

59. The Consultative Meeting in its resolution LDC.40(13) unambiguously expressed expectations on how UNCED could assist contracting parties in their future work related to the protection of the marine environment.

Notes

1/ Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972 (United Nations publication, Sales No. E.73.II.A.14 and Corr.1).

2/ A/42/427, annex.

Annex

RESOLUTION LDC.40(13). THE PROTECTION OF THE OCEANS AND ALL KINDS OF SEAS, INCLUDING ENCLOSED AND SEMI-ENCLOSED SEAS, AND COASTAL AREAS

The Thirteenth Consultative Meeting,

Aware that the environment in general, and the marine environment in particular, has continued to deteriorate, notwithstanding the environmental protection measures already taken,

Aware also that the quantity, diversity and complexity of chemical compounds entering the environment make it extremely difficult to determine the overall threat to the environment,

Recognizing that the volume of hazardous substances and wastes generated must be reduced if sustainable development is to be achieved and environmental security and human health are to be ensured for future generations,

Conscious that, notwithstanding the measures already adopted and implemented to protect the marine environment, additional measures are necessary to arrest and reverse marine ecosystem degradation, especially through alternative clean production methods applicable to hazardous waste streams,

Recalling United Nations Environment Programme decision 15/27 of 25 May 1989, by which the Governing Council of the United Nations Environment Programme recommended the principle of precautionary action, the Governing Council's decisions SS.II/4B of 3 August 1990 on a comprehensive approach to hazardous waste and SS.II/6 of the same date on the need for effective global protection of ocean and coastal ecosystems,

Noting that land-based sources of pollution constitute the major threat to the marine environment,

Noting also that no global instrument exists for the control of land-based sources of marine pollution, and that legal instruments for that purpose have been adopted in only five regions,

Mindful that existing pollution control approaches, under the London Dumping Convention, have been strengthened by shifting the emphasis from a system of controlled dumping based on assumptions regarding the assimilative capacity of the oceans, to approaches based on precaution and prevention,

Noting further in this regard that national legislation in a number of countries prohibits the dumping at sea of industrial wastes and sewage sludge and that decisions and appeals for an end to dumping of wastes at sea have been made by a number of international fora,

Noting that regional conventions such as the Helsinki Convention for the Protection of the Baltic Sea and the Oslo Convention for the Protection of the North Sea and the North-East Atlantic have banned or are phasing out the dumping at sea of industrial wastes, sewage sludge and incineration of noxious liquid wastes at sea, and that other regional conventions such as those developed under the United Nations Environment Programme Regional Seas Programme, address waste disposal at sea,

Realizing the need for international multilateral and bilateral co-operation and assistance, including the transfer of technology, the allocation of financial and other resources to developing countries, to implement the actions set out below,

Stressing the important provisions concerning the preservation and protection of the marine environment contained in the United Nations Convention on the Law of the Sea, particularly part XII,

Recognizing also the importance of the 1992 United Nations Conference on Environment and Development and the importance of making recommendations to national Governments and the appropriate international bodies responsible for the protection of the oceans,

Noting further the resolution of the first meeting of the Preparatory Committee of the United Nations Conference on Environment and Development concerning the protection of oceans and all kinds of seas, including its reference to the need for an intergovernmental meeting of experts on land-based sources of marine pollution which will be hosted by Canada in May 1991,

Recognizing further that it is important to adopt concrete, expeditious, action-oriented and far-reaching measures to achieve sustainable development before the ability to arrest and reverse environmental degradation is surpassed,

Agrees that Part XII of the United Nations Convention on the Law of the Sea dealing with the protection and preservation of the marine environment constitutes an appropriate global basis for a further elaboration of measures to protect the marine environment from pollution from all sources, through global, regional or bilateral arrangements,

Agrees further that the Preparatory Committee of the 1992 United Nations Conference on Environment and Development should recommend to the Conference that the following actions be taken:

1. That a global mechanism to co-ordinate the protection of the marine environment from pollution from all sources should be considered. Taking into account existing international agreements,co-ordination may embrace such matters as: accidental and operational pollution from vessels, dumping, pollution from land-based sources, atmospheric pollution, offshore industry, and disposal of wastes into the sea-bed as well as liability, and mechanisms for transfer of technology and financial resources, and arrangements concerning liability and compensation;

2. That a global instrument, as well as new or improved regional agreements, for the prevention, reduction and control of land-based sources of marine pollution should be considered. At the global level, such an instrument could be in the form of a declaration of basic principles, a code of conduct for States or a convention. The Montreal Guidelines (UNEP 1985) for the Protection of the Marine Environment against Pollution from Land-based Sources would be an important component of this process. This should take into account, inter alia, a precautionary approach, encouraging the adoption of clean production methods that reduce the generation of hazardous substances;

3. That States and appropriate international fora should also pursue a precautionary approach in addressing waste management problems by, inter alia, focusing on environmentally preferable land-based alternatives to disposal of waste at sea, while ensuring that pollution is not transferred to other parts of the environment via other disposal routes;

4. That national, regional and global fora should actively pursue the elimination of marine pollution through, inter alia, the adoption, implementation and enforcement of more stringent national and regional controls and the active pursuit of such technological and economic measures as clean production methods, including raw materials selection, product substitution and clean production technologies and processes; and

5. That all States which have not yet done so should ratify or accede to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters;

Urges the Preparatory Committee of the United Nations Conference on Environment and Development to address diligently the need for all States to be able to contribute in the pursuit of the objective of a clean marine environment. International agencies, Governments and the private sector should be encouraged to take expeditious steps to strengthen the mechanisms for providing co-operation, transfer of technology and assistance that would improve the capacity of developing countries to implement the measures contained in this resolution.